

### **REMARKS**

Pursuant to the final Office Action mailed April 1, 2009 and the Advisory Action mailed June 4, 2009, the present amendment is being filed concurrently with a Request for Continued Examination (RCE) under 37 C.F.R. §1.114 submitted contemporaneously herewith. Claims 9 - 16 have been rejected by the present Office Action. After entry of the present amendment, claims 9 - 16 remain pending. The present amendment amends independent claims 9, 12, and 14 to clarify the scope of the claimed inventions of claims 9, 12, and 14. No new matter has been introduced. Reconsideration of the application in view of the present amendment and following remarks is respectfully requested.

#### **Claim Rejections Under 35 U.S.C. § 101**

In the final Office Action, claims 9 - 13 were rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. To clarify the scope of the claimed invention of independent claim 9, the claim has been amended to “A method comprising executing computer implemented instructions performed by one or more processors for determining the collectability of check writers...” Claims 10 - 13 are ultimately dependent from independent claim 9. The §101 rejections are believed to be traversed.

#### **Claim Rejections Under 35 U.S.C. § 112**

Claims 9 - 13 were rejected under 35 U.S.C. §112, first paragraph, as failing to comply with enablement requirement. Amendment to independent claim 9 presented above is believed to render this rejection moot.

Claims 9 - 13 were rejected under 35 U.S.C. § 112, second paragraph, as not particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention. Amendment to independent claim 9 presented above is believed to render this rejection moot.

Claim Rejections Under 35 U.S.C. § 103

Claims 9 - 16 were rejected under 35 U.S.C. §103(a) as being obvious over Templeton, US 5,679,940 ("*Templeton*"), in view of Norton, U.S. Patent No. 6,243,689 ("*Norton*"). The Office Action admits that *Templeton* "does not show a database using categories to remove negative information from the negative file or to remove the negative information." See page 2. Instead, the Office Action alleges *Norton* relates to a modified negative file, e.g. 84, sent to a merchant location for check verification. See page 3. However, contrary to the Office Action's assertion, *Norton* merely relates to using a third party check verification or guarantee service to approve checks, wherein a merchant requesting approval of a customer-submitted check receives an approval code 82 or rejection code 84 (rather than a negative file or modified negative file) from the third party service in response to the request. See Col. 8, line 66 – Col. 9, line 18. While *Norton* relates to using a third party service to approve checks by way of an approval code 82 or rejection code 84, *Norton* does not teach or suggest at least the element "classifying, via at least one processor, each check writer into one of a plurality of categories associated with a score based at least in part on the number of checks returned to merchants for insufficient funds" of amended claim 9 as well as similar amended elements of claims 12 and 14. These amendments are fully supported by the Applicants' specification at least at page 6, line 15 – page 7, line 4, and page 7, lines 7 - 13, which state that:

In this embodiment, microprocessor 14 is configured to store the negative information of the plurality of check writers in distributed negative file 18 of database 16 in 112. The negative information includes information on the plurality of check writers indicative of their collectability. For example, for each check writer, the negative information may include number of checks returned to merchants for insufficient funds, credit rating, etc. Preferably, microprocessor 14 receives the information of each check writer from distributed negative file 18 and processes the information to determine a risk score of the respective check writer.

More specifically, the risk score for the check writer is based on the respective negative information of the check writer and is determined through a risk analysis program configured in the microprocessor 14. For example, through

the program, microprocessor 14 accesses the respective information of the check writer from database 16. In this embodiment, the program may have a number of parameters, each of which represent historical negative information accessed from negative file 18 of database 16. The parameters may be incorporated within calculations in order to determine a sub-score for each parameter. In this embodiment the sub-scores are then added to determine the risk score of the check writer. The sub-scores for the parameters may then be determined by using different calculations based on a predetermined importance of each parameter.

...

For example, microprocessor 14 may be configured to weigh the number of checks returned to merchants for insufficient funds with the most importance. In this situation, the importance placed on the parameter indicative of the number of returned checks for insufficient funds may be mathematically represented in the calculations, providing greater [sic] effect on the risk score than other parameters. Depending on a point of reference, the analysis may be affected by having a higher or lower value.

Neither *Templeton* nor *Norton*, either alone or in combination with each other, teaches or suggests the amended element of claim 9, “classifying, via at least one processor, each check writer into one of a plurality of categories associated with a score based at least in part on the number of checks returned to merchants for insufficient funds” (underlining supplied) or similarly amended elements of claims 12 and 14. While *Templeton* refers to a negative file 85 with data indicating that previous checks tendered by the customer were returned for some reason, and have not be collected” (col. 13, lines 22-25), and applying a credit risk scoring algorithm to available data in order to determine the likelihood a particular check will be good (col. 13, lines 58-63), these references are to using the result of a scoring algorithm (e.g., a normalized transaction score) to indicate the probability that the particular check will be good (col. 14, lines 15-17) rather than determining collectability of check writers to modify a negative file. There appears to no mention by *Templeton* of “classifying, via at least one processor, each check writer into one of a plurality of categories associated with a score based at least in part on the number of checks returned to merchants for insufficient funds”. This is supported by the

Office Action's admission that "*Templeton* does not show a database using categories to remove negative information from the negative file or to remove the negative information." See page 2. Further, while *Norton* relates to a negative code 84 sent to a merchant location for check verification (see page 3); *Norton* merely relates to using a third party check verification or guarantee service to approve checks, with no apparent classifying or scoring of any check writers within categories, wherein a merchant requesting approval of a customer-submitted check receives an approval code 82 or rejection code 84 (rather than a negative file or modified negative file) from the third party service in response to the request. See Col. 8, line 66 – Col. 9, line 18.

Moreover, while *Norton* relates to sending an approval code 82 or rejection code 84, *Norton* does not relate to sending a negative file or modified negative file, and therefore *Norton* does not teach or suggest at least the amended element "transmitting the modified negative file to at least one merchant for use in check verification at a merchant location, wherein the modified negative file is accessed to determine check writer information" of claim 9 as well as similar amended elements of claims 12 and 14. These amendments are fully supported by the Applicants' specification at least at page 8, lines 18 - 29, which state that:

In use, scrubbed file 20 is simply copied and sent to the merchant for implementation. For example, scrubbed file 20 may be any file compatible with a computer system used for check verification. Scrubbed file may be a hard copy of information including "non-collectible" or "least collectible" check writers. Scrubbed file 20 may be updated periodically as needed.

For example, as similarly stated above, scrubbed file 20 or a copy thereof may be configured in a computer system which may be locally disposed within a store of the merchant. Cashier stations may then access via computer line scrubbed file 20, as needed. A cashier would simply type in or swipe a check through in order to access scrubbed file 20 or a copy thereof. If the customer's name, bank account number or identification is included within scrubbed file 20, then the customer is typically denied.

In certain embodiments, by sending the negative file or modified negative file to the merchant for use at the local store of the merchant, less network time and fewer network resources may be

consumed to process check transactions using such data. For at least the reasons provided above, amended independent claims 9, 12, and 14 are believed to be allowable over the cited references.

Furthermore, dependent claims 10 - 11, 13, and 15 - 16 are ultimately dependent from at least one of amended independent claims 9, 12, or 14, for which arguments of patentability have been presented above, and if the independent claims are allowable over the cited references, the corresponding dependent claims should also allowable over the cited references.

**CONCLUSION**

It is not believed that extensions of time or fees for addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 19-5029.

Respectfully submitted,

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